IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.R.No.1450 of 2007
Date of Decision: May 21, 2007

BHOLA RAM ALIAS PRASHOTAM DASS

.....PETITIONER

VERSUS

FOOD CORPORATION OF INDIA AND ANOTHER

.....RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

. . .

PRESENT:- Mr.J.R.Mittal, Sr. Advocate with Mr. Krishan Kumar, Advocate for the petitioner.

A.N.JINDAL, J

Challenge in this revision petition is to Order dated 29.11.2006 passed by the Civil Judge (Jr. Division), Mansa whereby application for setting aside ex parte proceedings was dismissed in an execution for recovery of Rs. 6,32,706/-. The petitioner has urged that vide order dated 18.08.2004, he was proceeded against ex parte. Thereafter, vide order dated 29.11.2006 his application for setting aside ex parte order was dismissed, he being deaf and dumb did not attend the Court. The house in question constructed in

Khasra No. 942/2/2 min is owned by him and could not be put to sale.

Having examined the records, of the case it appears that Mast Ram and Datu Ram, were the owners of the property. After the filing of the suit for recovery on 05.12.1987 and after passing of decree on 05.09.1990, the brother of Mast Ram namely Datu Ram transferred this house to the objector obviously in order to frustrate execution. Even otherwise the executing Court has discussed at length that despite numerous opportunities provided to the applicant w.e.f.27.09.2003 to 18.05.2004, he could not bring on record any document of ownership. In any case, the copy of the sale deed shown to me,today, appears to be the result of collusion in order to frustrate the decree. Even otherwise there is no ground to set aside the ex parte proceedings as the objector was duly represented by his counsel and the provision of Order 9 Rule 13 CPC are not applicable to the execution proceedings.

Consequently finding no merit in the revision petition, the same is hereby dismissed.

(A.N.Jindal)
Judge

May 21,2007

Ruchika